REPORT

OF THE

ATTORNEY-GENERAL

OF THE

STATE OF FLORIDA,

FOR THE PERIOD

Beginning March 20, 1893, and Ending March 20, 1895.

TALLAHASSEE, FLA.
JOHN G. COLLINS, STATE PRINTER.
1895.

REPORT OF ATTORNEY-GENERAL.

ATTORNEY-GENERAL'S OFFICE,
TALLAHASSEE, FLA., March 20, 1895.

To His Excellency, HENRY L. MITCHELL, Governor of Florida:

In obedience to the requirements of the constitution of this State, I have the honor to submit the following report of the matters pertaining to the office of attorney-general for the two years last past.

Suit against the Florida Central and Peninsular Railroad Company for taxes due for the years 1879, 1880, 1881, amounting to $96,181.69. In 1885 the following act was passed by the legislature:

CHAPTER 3558.—[No. 3.]

AN ACT to Provide for the Assessment and Collection of Taxes on Railroads, and the Properties Thereof for the Years 1879, 1880 and 1881, as to Which There Was No Assessment.

The people of the State of Florida, represented in Senate and Assembly, do enact as follows:

Section 1. That in all cases in which any railroad or the properties thereto belonging or appertaining in this State, in the tax years commencing March 1, 1879, 1880 and 1881, or any of such years, were not assessed for taxes for such years, it shall be the duty of the comptroller to cause the same or so much thereof as were not assessed to be assessed for State and county taxes, and twenty per centum of the taxes so assessed for said years and now unpaid, shall be collected at the same time, the taxes for the year 1885 shall be assessed and collected, and each year thereafter an additional twenty per centum of said taxes shall be collected, at the same time and in the same manner as the taxes for such year are collected, until the whole amount of said unpaid taxes for the years 1879, 1880 and 1881 are paid.

The taxes to be assessed under this act shall be the same in

amount as they would have been had they been assessed in such years, or any of them as to which there was a failure to assess.

Approved February 12, 1885.

Beyond an assessment, nothing was done to enforce the collection of the taxes due for said years, and in 1891 this additional act was passed by the legislature:

CHAPTER 4073.—[No. 64.]

AN ACT to Provide for the Collection of Taxes Assessed Under and in Pursuance of "An Act to Provide for the Assessment and Collection of Taxes on Railroads and the Properties Thereof for the Years 1879, 1880 and 1881, as to Which There Was no Assessment," being Chapter 3558, Laws of Florida.

Be it enacted by the legislature of the State of Florida:

Section 1. That the State and county taxes assessed by the comptroller of the State of Florida upon any railroads and the property thereof in said State, for the years 1879, 1880 and 1881, under and in pursuance of "An Act to Provide for the Assessment and Collection of Taxes on Railroads and the Properties Thereof for the Years 1879, 1880 and 1881, as to Which There Was no Assessment," but which have not been collected, shall be collected, and the payment thereof enforced at the same times and in the same manner as is now, or may hereafter be, provided by law for the collection and the enforcement of the payment of taxes assessed upon the railroads and the properties thereof in the State of Florida.

Sec. 2. That this act shall take effect immediately after its passage.

Approved, June 8, 1891.

The amount of taxes claimed as due the State by said railroad for such years was $96,181.69.

Pursuant to the last named statute, all the lines of railroad of the Florida Central and Peninsular Railroad company were levied upon on behalf of the State on the 5th day of October, A. D. 1892. The railroad company, by John A. Henderson, Esq., its vice-president and general counsel, filed in the circuit clerk's office in Leon county, on the 2d day of November following, its bill of complaint to enjoin the levy and sale of its lines of road.

Judge John W. Malone, of the Second judicial circuit, was disqualified to sit in the cause and the case was finally heard before Judge John F. White, of the Third judicial circuit, on the 13th day of November, 1893. On the first day of December following a decree was rendered by Judge White, adjudging that the statute authorizing the assessment and collection of such taxes for the years 1879, 1880 and 1881 was

unconstitutional and void, and that the Florida Central and Peninsular railroad was not liable for such taxes. Representing the State throughout the proceedings, I entered an appeal from this decree to the June term of the Supreme court, 1894. On the 17th day of July following, the cause was submitted on briefs to the Supreme court for decision, the railroad represented by John A. Henderson, Esq., and the State by me as attorney-general. I had on the first day of the term made a motion to advance the cause on the docket for consideration by the court, which motion was granted.

On the 19th day of this month (March, 1895) the Supreme court rendered its decision in the cause. The opinion of the court was unanimous and sustains the contention of the State. It holds that the lines of railroad assessed for taxes for the years 1879, 1880 and 1881, under Chapter 3558, Laws of Florida, are liable for such taxes. The Florida Central and Peninsular Railroad company will have to pay this sum of $96,181.69 into the State treasury, for the benefit of the State and the various counties entitled to a portion thereof, unless such company carries the case to the Supreme court of the United States.

This would result in delay in collecting this large sum of money, but it is not likely to defeat the State's claim, as the sole question upon which the railroad company might hope to reverse the judgment of the Supreme court of Florida has been already, in another case, carried to the United States Supreme court from this State, and been adjudicated in favor of the State of Florida.

The following statement shows the amounts the State and the various counties will be entitled to out of this $96,181.69.

Counties.	Total Taxes for State Purposes.	Total Taxes for County Purposes.
Suwannee, taxes 1879, 1880 and 1881	$ 3,598 76	$ 4,171 29
Alachua, taxes 1879 and 1880	3,500 00	4,250 00
Baker, taxes 1879, 1880 and 1881	3,453 12	3,453 12
Bradford, taxes 1879, 1880 and 1881	2,891 02	2,365 39
Clay, taxes 1879, 1880 and 1881	873 84	993 00
Columbia, taxes 1879 and 1880	1,930 32	2,343 96
Gadsden, taxes 1879 and 1880	3,204 32	3,662 08
Jefferson, taxes 1879 and 1880	1,827 84	3,296 64
Levy, taxes 1879, 1880 and 1881	5,618 58	4,341 64
Leon, taxes 1879, 1880 and 1881	4,536 40	7,423 20
Madison, taxes 1879, 1880 and 1881	4,911 94	7,814 47
Nassau, taxes 1879, 1880 and 1881	6,281 00	7,994 00
Wakulla, taxes 1879, 1880 and 1881	662 64	783 12
	$ 43,289 78	$ 52,891 91

F. R. Osborne,

vs.

The State of Florida.

The twelfth sub-division of Section 9 of Chapter 4115, of the Laws of Florida, approved June 2, 1893, provides among other things that "all express companies doing business in this State, shall pay in cities of fifteen thousand inhabitants or more, a license tax of two hundred dollars; in cities of ten thousand to fifteen thousand inhabitants, one hundred dollars; in cities of five thousand to ten thousand inhabitants, seventy-five dollars; in cities of three thousand to five thousand inhabitants, fifty dollars; in cities of one thousand to three thousand inhabitants, twenty-five dollars; in towns and villages of less than one thousand and more than fifty inhabitants, ten dollars.

Any express company violating this provision, and any person that knowingly acts as agent for any express company before it has paid the above tax, payable by such company, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than fifty dollars, or confined in the county jail not less than six months.

"For an alleged violation of this statute, in knowingly acting as agent at Jacksonville, in Duval county, Fla., for the Southern Express Company, a corporation created under the laws of the State of Georgia, but doing business in Florida without having paid such license, F. R. Osborne, the plaintiff in error, was arrested upon affidavit and warrant, and required to give bond for his appearance before the Criminal Court of Record for Duval county, to answer said charge. Upon his refusal to give such bond, he was committed to the common jail of the county, there to await trial, whereupon he applied to the judge of the Circuit court for the writ of habeas corpus to test the legality of his arrest and detention. Upon the hearing on habeas corpus, the arrest and detention of the plaintiff in error on the charge alleged against him under this statute, were adjudged to be legal, and he was remanded to the custody of the sheriff, and this order he brings here for review by writ of error." I quote from the statement of the case in Osborne vs. The State, 33 Fla., 162.

The Southern Express company sought in this manner to test the validity of that portion of the general revenue statute applicable to itself. Its contention was, that doing an inter-state as well as a state business, it was exempt from taxation by virtue of the inter state commerce clause of the

Federal constitution. The opinion of the Supreme court held to the contrary, viz: "(b) That so long as an express company confines its operations to express business, that constitutes inter-state or foreign commerce it is exempt from the above legislation, but if it engages in business that is State, or local, as distinguished from inter-state or foreign commerce, it becomes subject to the statute, notwithstanding it may at the same time engage in inter-state or foreign commerce." The judgment of the court below was affirmed.

On the 13th day of March, 1894, John E. Hartridge, Esq., attorney for Osborne, applied to Hon. David J. Brewer, associate justice of the Supreme court of the United States, for a writ of error, and the same was allowed. Having filed in the Supreme court of the United States a transcript of the record and proceedings in the case of Osborne vs. The State *Supra*, the case was set for hearing before said court for the 15th day of October, 1894, and afterwards for the 29th day of said month. The case was argued by Mr. Hartridge in behalf of Osborne, but I was unable to argue same for the State of Florida, leaving Washington on a telegram from your Excellency, to attend at Tallahassee as a member of the board of State canvassers. I have lately been informed by the clerk of the United States Supreme court that the case has been set for re-argument at the term of the Supreme court in October next. At that time I hope to be present on behalf of the State.

State *ex rel.* Attorney-General,
vs.
Dillon, *et al.*

On the 17th day of October, 1893, I filed in the Supreme Court an information in the nature of a *quo warranto* against Benjamin F. Dillon and others, alleging in effect, that they without right or legal warrant, had usurped and still were usurping the offices of councilmen of the city of Jacksonville.

The reasons upon which the information was based, can be well given in the statement of the case made by the Supreme Court, and I quote from that:

"The information proceeds with the allegations that the claims of the said defendants to the offices in question, are based upon the pretense that they were elected to the same at an election for municipal officers pretended to be held in and for the said city of Jacksonville on the 18th day of July, 1893, by virtue of an act of the legislature of Florida, approved May 16th, 1893, being Chapter 4301, Laws of Florida.

" This election, and the act under which it was held, are alleged to be invalid, void and in violation of the constitution of the State of Florida, in this, that at said election, by the terms of the act, a considerable number of the inhabitants and citizens of said city, to whom the constitution guaranteed the right of suffrage at the time of said election, were denied the right to vote and participate therein, the excluded classes under said act being enumerated under the following heads:

" First. All male persons, residents of said city at the time of said city election, possessing the constitutional qualifications of electors, but who at the time of the general State election held next preceding said city election, were not qualified electors by reason only of not having attained the age of twenty-one years.

"Second. All male persons, residents of said city at the time of said city election, possessing all the qualifications of electors, but who at the time of the general State election held next preceding said city election, were not qualified electors by reason only of not having resided and had their domicile, home and place of permanent abode in the State of Florida for one year at the time limited for registration for such election.

" Third. All male persons, residents of said city at the time of said city election, possessing all the constitutional qualifications of electors, but who at the time of the general State election held next preceding the said city election, were not qualified electors by reason only of not having resided and had their habitation, domicile, home and place of permanent abode in the county of their then residence for six months, at the time limited for registration for said election.

" Fourth. All male persons, residents of said city at the time of said election, who at the time of the general State election, held next preceding said city election, and at the time of said city election possessed all the constitutional qualifications of electors, but were not electors of any of the election districts of said city at the time of said State election.

" It is further alleged that the act under which said election was held, is unconstitutional for the reason that by its terms only those persons were allowed to vote whose names appear on the registration lists, after the same had been revised by the persons named in the act as election commissioners without regard to registration in fact, and that by the terms of said act persons were allowed to vote at said city election who were qualified electors at the general State election held next prior thereto, but who had afterward lost their domicile

in the State and county of Duval, and had not regained the same in time to become an elector at the time of said city election under the provisions of the constitution; and also that at said election by the terms of said act the qualified electors of said city of Jacksonville were not permitted to vote for whom they pleased, but were restricted in the right of suffrage to vote for such person or persons whose names were placed upon an 'official ballot' by the election commissioners named in the act.

"The foregoing are the grounds especially alleged in the information impeaching the validity of the act of 1893, Chapter 4301, under which the election was held."

The defendant demurred to the information, and the court sustained the demurrer and upheld the validity of the act drawn in question, and in an elaborate opinion, decided in effect that the regulation of municipal elections, and the prescribing qualifications for voters at the same were matters of legislative discretion.

James E. Johnson, Appellant,
vs.
Armour & Co., Appellees.

The 17th paragraph of Section 9 of Chapter 4010, Laws of Florida, provides that "all dealers in dressed meats doing a business of twenty-five thousand dollars or more per annum shall pay a license of five hundred dollars."

James E. Johnson, tax collector for Duval county, treated the firm of Armour & Co., doing business in Jacksonville, as dealers in dressed meats, and the valuation of the amount of business done by the firm was ascertained by the tax collector. The firm refusing to pay the license tax required, by advice from the State attorney the tax collector seized certain personal property of the firm and advertised the same for sale. Armour & Co. filed their petition in the office of the clerk of the Circuit court for Duval county, and addressed to the Circuit judge, to have the assessment declared illegal. The tax collector filed his answer thereto, and upon petition, answer and exceptions to the answer the matter was heard, and the Circuit judge made an order declaring the assessment illegal.

The tax collector appealed the case to the Supreme court, and I represented him there. On the 19th day of April, 1893, the Supreme court rendered its decision. The Circuit judge held the tax imposed on the business in question to be illegal for the reason that the act gives no opportunity to a dealer for a hearing as to the value of his business, and that hence

there was a violation of the fundamental principle that no one shall be deprived of his property without due process of law. The Supreme court in its opinion held that "the tax is not a licence tax within that meaning of the statute which requires payment of the tax and the issuing of a license before business can be engaged in." The levy was made only three months after the act took effect, and consequently many months before the business year of the company had expired and before it could be determined whether the business amounted for the year to twenty-five thousand dollars. Unless this much business was done, then the company was not liable to a license tax. The court decided, further, that "the statute prescribes no remedy for the collection of the tax on dealers in dressed meats, and, this being the case, its payment is to be enforced by an ordinary civil action."

The State of Florida, *ex rel.* The Peruvian Phosphate Company, Plaintiff,

vs.

The Board of Phosphate Commissioners, Defendants. Original proceeding in the Supreme Court.—Mandamus.

This was a proceeding by the Peruvian Phosphate Company to compel the Board of Phosphate Commissioners (composed of the governor, comptroller and attorney-general) to "forthwith award to the relator the exclusive right to dig, mine and remove phosphate rock and phosphatic deposits from the bed of the Alafia river, adjacent to and bordering upon said tract of land described as 'all of lot 2 south, 19, township 30 south, range 20 east, except that portion owned by D C. Walker,' said tract having a frontage on said river of about 40 rods or more, and that they execute a contract with the relator therefor upon its compliance with the provisions of said statute, and such provisions as defendants, as such board, may be authorized to make in the premises." To the writ of mandamus issued, I framed a return in behalf of the governor, comptroller and myself, as the Board of Phosphate Commissioners, and the cause was heard on the alternative writ, and the return. The claim of relator was based upon a conveyance by one J. H. Patterson, who owned in fee the above lot of land to William T. Roberts and George R. Boaz, as co-partners of "the perpetual and exclusive right to dig, mine, and remove any and all phosphate rock, phosphatic deposits, or other mineral substances which might lie and be in the beds of streams and bayous included within or bordering on" said above described portion of said lot No. 2. Afterwards Roberts and Boaz conveyed to relator all their

rights under the Patterson deed. Chapter 4043, Laws of Florida, regulating the phosphate interests of the State in Section 3, provides among other things that "the board shall give preference to riparian owners" as to entering into a contract for mining phosphate deposits from the beds of navigable waters. The Supreme Court in its opinion (January term, 1893) held "the ground upon which the relator rests its claim to priority and relief, is that it occupies as to the disputed territory, status which the State gives to a riparian owner. In this it is mistaken." The board had before that refused to permit a contract with relator, but had given a contract to other parties to mine, etc., opposite this lot of land above described. Says the court further: "The statute does not concede to riparian owners any property interests in the phosphate deposits beyond high water mark, or in the beds of navigable waters. Instead of recognizing in riparian owners any property interests which is the subject of sale or transfer in or to the phosphate itself below high water mark, or the mining, digging, or removal thereof, the statute asserts the State's exclusive property, control and management in and over the same." In conclusion the opinion says "as the case stands, the relator was not a riparian owner at any time mentioned in the record, and has never been entitled to the preference which the statute accords to this class of persons; and as the case made by the alternative writ, and urged by counsel for relator is upon the theory of riparian ownership, a peremptory writ must be denied."

Judgment was accordingly for the Board of Phosphate Commissioners.

The State of Florida, *ex rel.* the Attorney-General,
vs.
James E. Johnson.—Mandamus.

This was an original proceeding in the Supreme court.

At the general election in Duval county on the 2d day of October, 1894, John F. Geiger was a candidate for the office of tax collector of said county and was voted for at said election for said office. The returns of said election were afterward canvassed by the county canvassing board, and by such canvass it appeared that Geiger had received the highest number of votes cast for any person for said office, and he was declared elected. On the 6th day of October, 1894, the supervisor of registration delivered to Geiger a certificate of his election. Within the time prescribed by law, Geiger filed his bond, properly approved, with the secretary of state, and

otherwise qualified according to law, and the governor issued a commission to him.

James E. Johnson was the tax collector for Duval county prior to the commencement of the term for which Geiger was commissioned, and refused upon demand of Geiger to surrender to him possession of the office, assessment rolls, books, records, papers and files of the said office of tax collector.

Upon the request of Geiger, and the statement made to me by the proper State authorities that the collection of taxes would be embarrassed greatly by any delay in a controversy between Geiger and Johnson as to right of possession of said office, I filed in the Supreme court, on the 23d day of January, 1895, a petition for a writ of mandamus to compel a delivery of the office, books, etc, from Johnson to Geiger.

The case was heard February 7th, following, upon the alternative writ, a motion to quash same and a return, and a demurrer to the return, and shortly afterward the court rendered its decision, and ordered the issuing of a peremptory writ of mandamus. Johnson then surrendered the office, books, etc., held by him to Geiger.

The State of Florida, *ex rel.* George A. Patton, Plaintiff,
vs.
W. D. Bloxham, Comptroller, Defendant.—Mandamus.

This was an original proceeding in the Supreme court against W. D. Barnes, comptroller, and by agreement the proceedings were continued against W. D. Bloxham, comptroller. The relator, Patton, claimed $320.55 as compensation for his services as collector of revenue for Franklin county in collecting taxes for the years 1886–1887. The return to the alternative writ set up as a defense against payment the failure of the said Patton as tax collector to make his reports as such tax collector according to law. A motion to quash the return was sustained, the court in its opinion saying: "The theory of the defense sought to be made is that relator had forfeited his commissions and that none were due him. In our judgment the return fails to exhibit such a defense under the statute, and fails to present any sufficient defense to the alternative writ."

The motion to quash the return was sustained. I had represented Comptroller Barnes in the former, and also represented Comptroller Bloxham in the latter case.

Ex parte Henry Pitts.—Habeas Corpus.

On the 18th day of January, A. D. 1895, Henry Pitts filed his petition in the Supreme court for a writ of habeas corpus,

alleging that he was unlawfully detained in custody by the sheriff of Polk county. The sheriff made a return to the writ issued in the case, stating therein that he held petitioner by virtue of a capias issued out of the County court for Polk county.

Pitts sought by this means to contest the legal existence of the County court. I represented the sheriff and filed a brief in the case. The Supreme court rendered its opinion January 29th, and after deciding the points raised, concludes as follows: "On the case as presented to us it is our duty to remand the petitioner to the custody of the sheriff of Polk county, and an order will be entered accordingly."

John T. Bond, Plaintiff in Error,
vs.
The State, *ex rel.* Julia Jarvis, Defendant in Error.

In this case Bond sued out a writ of error to reverse a judgment in a bastardy case of the Circuit court for Madison county. The writ of error was issued more than six months after the rendition of said judgment. I represented defendant in error, and moved in the Supreme court to dismiss the writ of error because not sued out within the time prescribed by the statute. The opinion of the court says in conclusion: "A bastardy proceeding is not a criminal case under our statutes, as they were before, or as they are now, since the act of 1893. The judgment against the plaintiff in error was a civil judgment, and the writ of error should have been sued out within six months of the date of the judgment. It was not sued out within such time, therefore the motion to dismiss the writ of error is granted."

THE PRIZE FIGHT.

The Duval Athletic Club of Jacksonville, arranged a prize fight between James J. Corbett and Charles Mitchell to take place in that city on the 25th day of January, A. D. 1894. Your Excellency had ordered the sheriff of Duval county to prevent its taking place.

The Duval Athletic Club filed a bill in the Circuit court of the Fourth judicial circuit in Duval county, to restrain the sheriff from taking possession of the grounds, buildings, etc., in which the fight was to occur.

The Circuit judge granted a temporary injunction, and on the morning of the 25th of January when the matter had been argued by counsel for the club, and by Hon. A. G. Hartridge, State attorney, and myself for the sheriff, the court announced its views as not changed from the day be-

fore. A final decree was never filed in the cause. The prize fight occurred on the 25th day of January, the sheriff and the State militia and the officers representing the State being powerless to stop the same.

That the contest was a prize fight there can be no doubt, even though it was veiled in name under the euphemistic title of a glove contest. On the afternoon of January 25th, both Corbett and Mitchell, and the members of the Duval Athletic club, were placed under arrest and bonds to appear before the Criminal Court of Record for Duval county on the 28th day of February, A. D. 1894.

The trial took place on that day of James J. Corbett before a jury and he was acquitted. Upon conference with Judge Christie, solicitor of the criminal court of record, I requested the court to enter a *nol pros* against Mitchell and the members of the athletic club.

The chancery case of the Athletic Club vs. Broward, Sheriff, was appealed to the Supreme court, to have a review of Judge Call's ruling.

PHOSPHATE LITIGATION.

The case of the State vs. The Black River Phosphate Company has been submitted, upon the report of the master and exceptions of the defendant thereto, for final decree to the Circuit court in and for Duval county. A decision is expected at an early day. At present Judge Call is busy holding his terms of court.

OTHER PHOSPHATE SUITS.

Other phosphate suits pending are as follows: State vs. The Charlotte Harbor Phosphate company; State vs. Jacksonville Peace River Phosphate company; State vs. Tampa Phosphate company; State vs. Gulf Phosphate company; State vs. Peace River Phosphate company; State vs. DeSoto Phosphate company.

Hon. S. M. Sparkman writes me as follows:

"To all of these suits, except that against the Charlotte Harbor Phosphate company, the defendants filed pleas setting up the ownership of the lands contiguous to the stream, and the claim that as such owner they were entitled to the bed of the stream. The Charlotte Harbor Phosphate company removed their case to the United States Circuit Court for the Southern district of Florida, shortly after the filing of the bill, and then made answer thereto, setting up substantially that by reason of the ownership of the land contiguous to the stream where they were mining, they had title to the bed of the stream. Testimony was taken upon the issues

made, and the case submitted something like a year ago to Judge Locke, since which time he has had the same under advisement, no decision as yet having been rendered. As this company was operating in the stream more largely than any other, and as adjudication in this case would possibly determine the rights in the others, we concluded to let the remaining suits rest until we could push the case against The Charlotte Harbor Phosphate company to a final hearing, and this course we have adopted.

"Some of the remaining companies have been digging largely in the banks, and therefore would not be liable to the State for amounts so taken from the land lying contiguous to Peace river.

"The cases of the State against the Alafia River Phosphate company, and the Tampa Phosphate company, we have settled, and have made reports to the Board of Phosphate Commissioners, from which you can obtain all information desired.

"Another claim against J. O. Carr, receiver of the Florida Consolidated Phosphate company, was submitted to us, and we intervened on behalf of the State to collect the royalty upon phosphate mined by said receiver. This was also finally adjusted through the courts, and the amount obtained remitted to the board. They also submitted to us some months ago claim upon the bond of the Gulf Phosphate, Mining and Manufacturing company, the sureties being Judge Z. King and W. T. Whitledge, the former of whom has been making propositions looking to a compromise, and we hope soon to be able to make a settlement satisfactory to the State."

SUGGESTED LEGISLATION.

I would respectfully recommend to the legislature a change in our election law. It has been condemned by public opinion generally, and by all political parties in this State. The Florida legislature is almost wholly democratic, and I beg to submit with due deference, for their consideration the sentiment of the last democratic State convention held in Jacksonville on the 31st day of July, 1894, upon this point. "Believing that the permanency of free institutions is dependent upon fair expression at the polls of the voice of the people, we therefore recommend that the legislature at its next session pass such an election law as will best preserve the purity of the ballot, and give each contending party a representative in the conduct of elections."

This clause in the democratic platform is an arraignment and a denunciation of our present election law, or at least cer-

tain features of it. Every portion of this platform means approval or condemnation of something, or somebody, or it is a merely senseless utterance. The last cannot be presumed of so deliberate a declaration. The purpose of the present election law was to prevent ignorant suffrage from seizing the government of the State. It has served its purpose well to that extent, but it falls short of what an intelligent public opinion now demands. That demand is for some other election law, or even the present election law, that will suffice as a shield against an ignorant suffrage predominating in the State and yet will by its provisions establish public confidence in the fairness of all elections held under it. This could be done by the appointment of judges of elections from the principal political parties having candidates to be voted for in the election. In my canvass of the State in 1892 I had many evidences of a desire for a change in our election law by all classes of people, and as a member of the board of State canvassers, and in my capacity as attorney-general, I have been made very familiar with charge and counter charge of fraud under our election law. To say that the legislature now about to assemble cannot frame and pass an election law that will meet the public demand would be to charge incapacity on their part, which I will not concede.

DEFENDANT'S STATEMENT IN CRIMINAL CASES.

I would recommend a change in our laws relative to a defendant's right in criminal cases of making a statement in his defense. The law is a shield to a shrewd criminal, but to an innocent man confused by the novelty of his situation and of his peril, the law is a mere trap to the unwary. If the defendant speaks in his own behalf, he should be made to speak and assisted to speak as to all the facts. The law as it now stands reads as follows:

"In all criminal prosecutions the accused shall have the right of making a statement to the jury, under oath, of the matter of his defense or her defense."

I would suggest the law of Wisconsin as a substitute, which is as follows:

"In all criminal actions and proceedings the party charged shall, at his own request, but not otherwise, be a competent witness, but his refusal or omission to testify shall create no presumption against him or any other party thereto."

WOMEN AS NOTARIES PUBLIC.

The case of the State *ex rel.* the Attorney-General, vs. George, 23 Florida Report, page 585, would seem to favor the view of the legality of the appointment of a woman to

be a notary public. If this can be done legally, it should be done. The sphere of woman as a money earner, should be enlarged in all directions that afford honorable employment. If a law were passed permitting their appointment as notaries public, and application should be made, and the governor should have a doubt about the legality of issuing a commission, it would be a case where he would have the right to submit the question to the Supreme Court for their opinion, and thus would settle the matter under our constitution.

REPORTS OF CIRCUIT JUDGES.

I have received from Circuit Judges Call, Barnes, Phillips and Hocker reports and suggestions concerning defects or amendments of legislation, as required by Section 13, Article V, of the constitution. These I will lay before the proper committees of the two houses, and members thereof, for their consideration.

SUPREME COURT REPORTS.

Up to the year 1889, when I came into this office, and for two years while I was attorney-general, only one volume per annum of Supreme court decisions was reported.

For the years 1891, 1892, 1893 and 1894 I have reported two volumes of Supreme court decisions per annum. This places in the hands of the legal profession and the public generally a desired information much earlier than when only one volume was reported.

CRIMINAL CASES IN THE SUPREME COURT.

I deem it unnecessary to set out in detail the title of each criminal case, the nature of the offence, and the judgments rendered in the same, that have been argued by me or in which I have filed briefs in the Supreme Court for the past two years. They usually number from twenty to twenty-five cases.

All of which is respectfully submitted.

WILLIAM B. LAMAR,
Attorney-General.